

Filed
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Laura Hinojosa
District Clerk
Hidalgo District

CAUSE NO. C-3253-12-I

SAMUEL E. BENSON, III d/b/a
AAA AMBULANCE,

Plaintiff,

v.

ESO SOLUTIONS, INC. and
INTERMEDIX CORPORATION,

Defendants.

IN THE DISTRICT COURT

HILDAGO COUNTY, TEXAS

398TH JUDICIAL DISTRICT

DEFENDANT ESO SOLUTIONS, INC.'S ORIGINAL ANSWER

Defendant ESO Solutions, Inc. ("ESO") files this Original Answer to Plaintiff's Original Petition and responds as follows:

I.

GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, ESO denies each and every, all and singular, the allegations contained in Plaintiff's Original Petition and respectfully requests that the Court require Plaintiff to prove its causes of action and any and all amendments thereto, by a preponderance of the evidence, as is required by the Texas Rules of Civil Procedure.

II.

AFFIRMATIVE DEFENSES

1. ESO affirmatively asserts the defense of proportionate responsibility as contained in Chapter 33 of the Texas Civil Practice & Remedies Code.

2. ESO affirmatively asserts the defense of statute of limitations.

3. ESO affirmatively asserts the defenses of ratification and waiver.

4. ESO affirmatively asserts the defense of mitigation of damages to the extent Plaintiff has failed to take action to mitigate his losses, if any.

5. ESO affirmatively asserts that an award of exemplary damages, if any, is subject to the limitations imposed by Texas Civil Practice & Remedies Code § 41.008 and the Due Process Clause(s) of the Texas and United States Constitutions.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant ESO Solutions, Inc. prays that Plaintiff take nothing by its claims and for such other and further relief to which Defendant may show itself to be justly entitled.

Respectfully submitted,

By: 

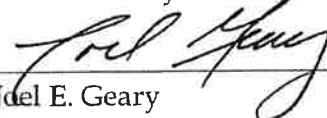
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ESO Solutions, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon Marcus C. Barrera, BARRERA, SANCHEZ & ASSOCIATES, P.C., 10113 North 10th Street, Suite A, McAllen, Texas 78504, Attorneys for Plaintiff, by certified mail, return receipt requested, on the 19th day of November, 2012.


Joel E. Geary